INTERIOR APPROPRIATIONS/Oil Royalty Increase by Bureaucratic Action

SUBJECT: **Department of the Interior and Related Agencies Appropriations Bill for fiscal year 2000 . . . H.R. 2466. Hutchison amendment No. 1603.**

ACTION: AMENDMENT AGREED TO, 51-47

SYNOPSIS: As amended by a committee substitute amendment, H.R. 2466, the Department of the Interior and Related Agencies Appropriations Bill for fiscal year 2000, will provide $14.058 billion in new budget authority, which is $239.9 million less than provided last year and $1.208 billion less than requested.

The Hutchison amendment would prohibit using funds from this Act to issue a notice of final rulemaking with respect to the valuation of crude oil for royalty purposes. (Oil companies that lease Federal lands for oil production pay royalties on the oil they produce. The royalties, by law, are based on the market value of the oil at the wellhead when it is ready to be sold. In general, the more difficult it is to get oil from a particular wellhead to a refinery, the lower the value that oil will have at the wellhead, because there will be higher transportation, marketing, and other costs to get it to a refinery. The regulatory formula for determining royalty payments that are due is extremely complex. Both oil companies and the Minerals Management Service (MMS) have agreed that the regulations should be simplified. The MMS proposed changes to the regulations 3 years ago. The proposed changes would increase the amount due in royalties by disallowing deductions for marketing and by changing the formula for determining transportation costs. In effect, the MMS proposed collecting royalty taxes on oil based not on its wellhead value but on a value closer to the value it has when it reaches a refinery. In other words, the MMS proposed increasing royalty taxes. One-year moratoriums have been enacted for each of the last 3 years to prevent the new regulations from going into effect.)

Those favoring the amendment contended:

The Hutchison amendment would stop a regulatory agency from imposing a royalty tax increase on oil producers. Congress has not given that agency the authority to impose that tax increase. This amendment should be supported for constitutional reasons, to

(See other side)

YEAS (51)			NAYS (47)			NOT VOTING (1)	
Republicans (46 or 87%)		Democrats (5 or 11%)	Republicans (7 or 13%)	Democrats (40 or 89%)		Republicans (1)	Democrats (0)
Abraham	Hagel	Bingaman	Collins	Akaka	Kennedy	McCain-2AN	
Allard	Hatch	Breaux	Gregg	Baucus	Kerrey		
Ashcroft	Helms	Inouye	Jeffords	Bayh	Kerry		
Bennett	Hutchinson	Landrieu	Roth	Biden	Kohl		
Bond	Hutchison	Lincoln	Smith, Gordon	Boxer	Lautenberg		
Brownback	Inhofe		Snowe	Bryan	Leahy		
Bunning	Kyl		Specter	Byrd	Levin		
Burns	Lott			Cleland	Lieberman		
Campbell	Lugar			Conrad	Mikulski		
Chafee	Mack			Daschle	Moynihan		
Cochran	McConnell			Dodd	Murray		
Coverdell	Murkowski			Dorgan	Reed		
Craig	Nickles			Durbin	Reid		
Crapo	Roberts			Edwards	Robb		
DeWine	Santorum			Feingold	Rockefeller		
Domenici	Sessions			Feinstein	Sarbanes		
Enzi	Shelby			Graham	Schumer		
Fitzgerald	Smith, Bob (I)			Harkin	Torricelli		
Frist	Stevens			Hollings	Wellstone		
Gorton	Thomas			Johnson	Wyden		
Gramm	Thompson						
Grams	Thurmond						
Grassley	Voinovich						

VOTING PRESENT (1)
Warner

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

protect oil workers, to protect economic and national security, and to protect consumers. If this tax increase were imposed, the only winners would be big oil companies and liberals who think the Government should be bigger.

The constitutional objections are most serious. Senators often rail about the excesses of liberal judges who like to make up new laws from the bench, but at least those judges have not gone so far as to usurp the power to tax. In this case, the MMS has tried to assume that power by imposing regulations that will collect royalty taxes in a manner that clearly has not been authorized. Congress, by law, stated that royalty payments must be collected on the value of the oil at the wellhead, which is lower than the value of the oil at the refinery. The MMS regulations, in a transparent effort to raise more in taxes than permitted by law, would tax the oil at a higher value by disallowing and reducing some of the costs that can be claimed for marketing the oil and getting it to the refinery.

The practical effects of the royalty tax would all be negative. Our liberal colleagues like to talk about how we need to collect more in royalty payments "for the taxpayers." However, if these new taxes were imposed the Federal Government, not the taxpayers, would get the money, and we guarantee that our liberal colleagues would do everything in their power to spend the money instead of giving it to the taxpayers. The rhetoric about this being to help the "taxpayers" is a smokescreen being used by tax-and-spend liberals to try to make the Federal Government even bigger. The rhetoric about these regulations being needed to stop "big oil" from cheating on royalty payments is likewise just a smokescreen. The new regulations would apply to all producers, large or small. Every producer who has a well on Federal lands would get a hefty tax increase thanks to the bureaucrats at the MMS. Senator Boxer, who has led the opposition to this amendment, has falsely stated that the new regulations would apply only to the largest, top 5 percent of producers. We inform her that we have a letter that says otherwise from the California Independent Petroleum Association, which represents 450 independent oil and gas producers, royalty owners, and service companies in her State. That letter makes clear that the MMS's new regulations would put a large tax increase on them as well as the big producers, and it makes clear that the Association strongly supports the Hutchison amendment. The oil industry in America has had severe problems in recent years. The price of oil plummeted in 1997 and only recovered this year. That drop cost 67,000 Americans their jobs, and it resulted in 200,000 oil and gas wells shutting down. Many of those wells are low-margin stripper wells that will never be reopened due to the large start-up costs involved. Crude oil production in the United States has hit a 50-year low. Imposing a tax increase on this industry which has already been decimated and is struggling to recover would just end up in thousands of more workers losing their jobs and more oil well closures. Those jobs would move overseas. For big oil companies, it would not make much difference; they would just increase overseas production. Their smaller competitors, though, would be hard hit and forced out of business. The United States now imports more than 50 percent of its oil. At the time of the oil embargo, which caused economic havoc, it imported only one-third. Our economic security and national security are being threatened by having to rely on foreign nations, many of which are hostile to us, for our energy needs. Finally, we note that big oil companies would not just assume the costs of a tax hike--they would pass those costs through to consumers, who would pay more at the pump.

Some Senators have said that the fact that some big oil companies have settled State suits against them proves that those companies are guilty of underpaying their taxes. We disagree. The companies that have settled have done so only after spending huge sums in legal fees fighting the unjust suits, and they have only settled because they have decided it is cheaper than continuing to fight. However, one company, Exxon, has refused to settle, and it has just won a 15-year suit against it by California. In our opinion, these State suits are just disreputable grabs for money by State Governments that hope to profit off the confusion caused by the current, vague regulations. Some Senators have suggested, with no evidence, that legal campaign contributions by oil producers to political parties have influenced some Members' position on this issue. That charge is not an argument; it is an insult. We note, though, that there is strong evidence of corruption at the MMS. Two MMS officials who wrote the new tax increase regulations are currently under investigation for taking massive bribes from a "good government" group that favors a tax hike.

In sum, if the MMS gets away with this proposal to impose an unconstitutional tax increase, the Federal Government will get more money to spend, more small oil producers will fail, more oil field workers will lose their jobs, big oil will get a bigger market because of fewer competitors, and big oil will pass on its higher royalty costs to consumers. Supporters of the proposed regulations say they want to get money for the taxpayers, but the Government will get the money and the taxpayers will get the bill at the gas pump. We strongly oppose that result, and thus support the Hutchison amendment to stop those regulations from going into effect.

Those opposing the amendment contended:

The MMS has proposed very reasonable regulations to stop large, vertically integrated oil companies from escaping from paying the full amount in royalties that they owe for oil they take from Federal lands. That oil belongs to the American people, so when the oil companies do not pay the royalties required they are stealing from the American people. When a large oil company owns the oil well, transports its own oil, and refines its own oil, it can artificially lower the supposed value of that oil by cost-shifting. Several large oil companies have been sued in State courts for this practice. The States have sought to recover their share of the royalty payments that should have been paid. So far, 7 States have collected $5 billion from big oil companies. Big oil companies have been able to get their supporters in Congress to block regulatory reform for the past 3 years. They give $35 million to political candidates each year, and this yearly stall of regulatory reform lets them get away with paying $2 billion less in royalty taxes than they would have to pay if reforms were enacted. This situation is an outrage. We oppose the Hutchison amendment.